

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Criminal Division

FILED
ORIGINAL

UNITED STATES OF AMERICA)

2012 JUL 24 P 12:51

v.)

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA
Case No. 2999457
Hon. Ivan Davis

CHANITUM KULLAVANIJAYA)

PRAECIPE

WILL THE CLERK OF THE COURT PLEASE NOTE that Mr. Brian Mizer is on leave until September and the undersigned has been hired. Undersigned counsel hereby enters his appearance for the Defendant. While there are issues that remain in this case, we expect the matter to close out now that:

(1) The defendant has again identified himself as having been the victim of repeated sexual assault as a child in his home country, such that that it is inappropriate for him to continue in the group setting the Parole Officer has insisted on, with known child sexual abusers. He has made private arrangements to commence therapy with Dr. Mark Dalton, formerly of Children's National Medical Center and currently working for the Court system in Washington, DC. We assume the Probation department has no issue with a court employee and specialist who formerly worked with abused children and adult survivors of the same.

(2) The undersigned has advised him that lie detector tests are not admissible in Federal court as they do not meet the Frye test. They are certainly not in conditions one through 16 of the Court order of August 16, 2011. The probation officer, as a part of the Court, cannot order the Defendant to submit to an unreliable test nor is the failure to take it admissible to the fact finder. See Rowland v. United States, 840 A.2d 664 (D.C. 2004);

see also State v. Hawkins, 326 Md. 270, 604 A.2d 489, 492 (Md. 1992) (the often quoted description of lie detectors results as "pariah")).

(3) Given this case began as a consensual relationship between two men, one of whom turned out to be an undercover officer, and the defendant has now completed 11 months plus of probation, we expect the matter to be concluded shortly. While the probation office has done some insensitive (and arguably homophobic) actions we do not think the "game is worth the candle" in terms of highlighting them to their attention.¹

(4) given 11 plus months of compliance, enough is enough.

Respect fully submitted

Kenneth H. Rosenau, Esq.
VSB # 33873
Rosenau and Rosenau
1304 Rhode Island Ave N.W.
Washington, DC 20005
Tel: 202 387 8680
Fax: 202 387-8682
Kenneth.Rosenau@Rosenaulaw.com

CERTIFICATE OF SERVICE

I, Kenneth H. Rosenau, hereby certify that a true copy of the foregoing was hand delivered on the 24th day of July, to:

The Offices of the United States Attorney
For the Eastern District of Virginia

Kenneth H. Rosenau, Esq.

¹ E.g., see (1) above where they insist that the combination of different types of sexual offenders is perfectly all right and supported by the literature and refusal to consider the history of the defendant, and the fact this particular "sexual offense" at a known pick up spot for homosexuals differs in kind from those who molest children. It is not clear to the undersigned why they refuse to permit him a facebook page, limit what he can see on the internet and take such an interest in his private (not on federal land) sex life.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA,

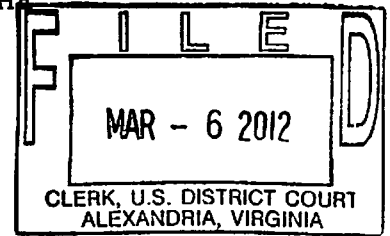
v.

CHANITNUN KULLAVANIJAYA,

Defendant.

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Case No. CIT2999437



O R D E R

THIS CAUSE came on March 6, 2012, for a Probation Violation Hearing on the charge that the defendant, CHANITNUN KULLAVANIJAYA, violated the conditions of probation imposed on August 16, 2011, by the Honorable Ivan D. Davis, United States Magistrate Judge for the Eastern District of Virginia. The defendant appeared with counsel, Brian Mizer, Esquire; the United States was represented by Rob Heberle, Esquire.

The defendant admitted the allegation as contained in the Petition on Probation and defendant was found in violation.

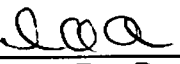
WHEREFORE, it is

ORDERED that the defendant, CHANITNUN KULLAVANIJAYA, shall remain on his previous conditions of probation; and it is further

ORDERED that the current conditions of supervision of the defendant, CHANITNUN KULLAVANIJAYA, are hereby modified to include mental health testing and/or treatment as directed by probation. Additionally, the supervised probation of the defendant, CHANITNUN KULLAVANIJAYA, is also modified to include

Five (5) days of incarceration with the Bureau of Prisons which may be served on weekends or other intermittent times as deemed appropriate by the probation office. The Court informed defense counsel that if the Alexandria Detention Center is not appropriately addressing the defendant's medical condition, defense counsel should bring it to the Court's attention and the Court may modify the sentence.

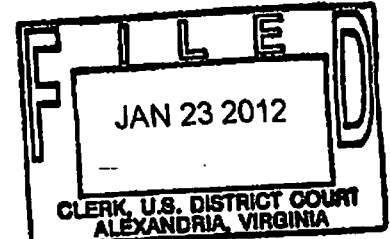
The Clerk shall forward copies of this order to counsel of record and to Christopher J. Ricciardi, Probation Officer Assistant.

 /s/ _____
Ivan D. Davis
United States Magistrate Judge

Alexandria, Virginia
March 6, 2012

Prob 12
(Mod. For E.V. 10/09)

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF VIRGINIA



U.S.A. vs. Chanitnun Kullavanijaya Docket No. CIT2999437

Petition on Probation

COMES NOW Christopher J. Ricciardi, PROBATION OFFICER ASSISTANT OF THE COURT, presenting an official report upon the conduct and attitude of Chanitnun Kullavanijaya, who was placed on supervision by the Honorable Ivan D. Davis sitting in the Court at Alexandria, Virginia, on the 16th day of August, 2011, who fixed the period of supervision at ONE (1) year, and imposed the general terms and conditions heretofore adopted by the Court and also imposed special conditions and terms as follows:

(SEE PAGE 2)

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:
See Attachment(s)

PRAYING THAT THE COURT WILL ORDER a summons to be issued directing that the offender appear before the Court to show cause why supervision should not be revoked.

Returnable Date: February 7, 2012 @ 10 A.M.

ORDER OF COURT

Considered and ordered this 23rd day of Jan, 2012 and ordered filed and made a part of the records in the above case.


Ivan D. Davis
United States Magistrate Judge

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 2012


Christopher J. Ricciardi
Probation Officer Assistant

Place: Alexandria, Virginia

TO CLERK'S OFFICE



Petition on Probation

Page 2

RE: Kullavanijaya, Chanitnun

OFFENSE: Disorderly Conduct.

SENTENCE: On August 16, 2011, Chanitnun Kullavanijaya was sentenced to ONE year supervised probation with the following special conditions: 1) The defendant shall no enter any Federal parklands, except for travel through by motor vehicle, in the Eastern District of Virginia, Maryland, and the following Federal parks in the Washington, D.C. area: John Marshal Park, P Street Beach, and Columbia Island. If the defendant is required to be in any of the above mentioned federal parks for work purposes, then he shall be allowed to enter them as long as there is advance notification and approval by probation; 2) The defendant shall pay a \$250.00 fine and a \$25.00 processing fee as to 2999437 to be paid by September 16, 2011; 3) The defendant shall serve FIVE (5) DAYS of home confinement with electronic monitoring to be paid by the defendant; and 4) The defendant shall pay a special assessment of \$10.00 for count 2999437 which shall be paid by September 16, 2011.

ADJUSTMENT TO SUPERVISION: On August 16, 2011, Mr. Kullavanijaya's probation commenced and a urine specimen was collected as part of his intake process. The specimen collected tested positive for amphetamines, and confirmed positive for methamphetamines by GC/MS.

On August 25, 2011, Transfer of Supervision was requested from the District of Maryland, as that is where the defendant resided upon the commencement of his supervision.

On September 9, 2011, No Court Action was recommended for the above mentioned urine specimen, given the date of submission, there was a presumption that the illegal substance was used prior to the commencement of supervision and, therefore, did not constitute a violation of the terms and conditions of his probation. On September 14, 2011, Your Honor approved and signed the no action recommendation.

On the same date, a Waiver of Hearing to Modify Conditions of Probation was submitted, signed by Mr. Kullavanijaya, adding the following special conditions: 1) The defendant must participate in a drug education or treatment program, or both, if ordered to do so by the supervising probation officer; and 2) The defendant must undergo drug testing, including but not limited to urinalysis, if ordered to do so by the supervising probation officer. Your Honor approved and signed that document on September 14, 2011.

On September 30, 2011, United States Probation Officer Michael Wilbur, District of Maryland, accepted supervision of Mr. Kullavanijaya's probation.

Petition on Probation

Page 3

RE: Kullavanijaya, Chanitnun

On September 16, 2011, fine and Court fees were paid in full and on October 12, 2011, the defendant successfully completed his 5 days home confinement ordered by the Court.

VIOLATIONS: The following violations are submitted for the Court's consideration.

MANDATORY CONDITION: CONDITION 7: USE OF METHAMPHETAMINES.

On December 14, 2011, Mr. Kullavanijaya submitted a specimen which tested positive for amphetamines. On December 22, 2011, the specimen was confirmed positive by GC/MS for methamphetamines.

CJR/cs 

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES

JUDGE: IVAN D. DAVIS

CASE NO.: 299943.7

HEARING: PBV Hearing

DATE: 3-16-2012

TIME: 10 AM

REPORTER: FTR GOLD SYSTEM

CLERK: Janice Allen

vs.

Chamitrun Kullavanijaya
DEFENDANT(S)

COUNSEL FOR UNITED STATES:

COUNSEL FOR DEFENDANT:

INTERPRETER:

LANGUAGE:

() DEFT. APPEARED () THROUGH COUNSEL () FAILED TO APPEAR () WARRANT TO BE ISSUED

() RULE 5 ADVISEMENT

() COURT TO APPOINT COUNSEL

() DEFT. TO RETAIN COUNSEL

() CONTACT PREVIOUS COUNSEL & REAPPOINT

() PRELIMINARY EXAMINATION WAIVED

() COURT FINDS PROBABLE CAUSE

() U.S. REQUESTS DETENTION () GRANTED () DENIED

() GOVT NOT SEEKING DETENTION

() DEFT. () REMANDED () DETAINED

() DEFT. ADMITS () DENIES VIOLATION

() COURT FINDS DEFT. IN VIOLATION

() DEFT. CONTINUED ON BOND/PROBATION

CONDITIONS OF RELEASE:

(\$) UNSECURED () SECURED () PTS () 3RD PARTY () TRAVEL

RESTRICTED

() APPROVED RESIDENCE () SAT () PAY COSTS () ELECTRONIC MONITORING

() MENTAL HEALTH TEST/TREAT () ROL () NOT DRIVE () FIREARM () PASSPORT

() AVOID CONTACT () ALCOHOL & DRUG USE () EMPLOYMENT

MINUTES:

() GOVT ADDUCED EVIDENCE & RESTS () EXHIBITS:

() DEFT ADDUCED EVIDENCE & RESTS () EXHIBITS:

Govt req. a short period of incarceration of 10 days and to modify probation to incl. mental health treatment.

The Court orders supervision to be modified to incl mental health treatment and a sent of 5 days in jail which may be served on weekends as directed by prob. If counsel finds that the jail cannot adequately supply deft w/ needed medication - to advise the Court of such.

() GOVT. () DEFT. () JOINT MOTION TO CONTINUE () GRANTED () DENIED

NEXT APPEARANCE:

AT AM OR PM
() DH () PH () STATUS () TRIAL () JURY () PLEA () SENT () PBV () SRV () VCR () RS
() ARRAIGN () INDENT () OTHER JUDGE

() MATTER CONTINUED FOR FURTHER PROCEEDINGS BEFORE THE GRAND JURY

() RELEASE ORDER GIVEN TO USMS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES

JUDGE: IVAN D. DAVIS

CASE NO.: 2999437HEARING: PBVDATE: February 21, 2012TIME: 10am

REPORTER: FTR GOLD SYSTEM

CLERK: KATE TOTH

vs.

Charithun Kullavanijaya
DEFENDANT(S)

COUNSEL FOR UNITED STATES: Bob HeberleCOUNSEL FOR DEFENDANT: Brian Mize

INTERPRETER: _____

LANGUAGE: _____

(☒) DEFT. APPEARED () THROUGH COUNSEL () FAILED TO APPEAR () WARRANT TO BE ISSUED

() RULE 5 ADVISEMENT

() COURT TO APPOINT COUNSEL

() DEFT. TO RETAIN COUNSEL

() CONTACT PREVIOUS COUNSEL & REAPPOINT

() PRELIMINARY EXAMINATION WAIVED

() COURT FINDS PROBABLE CAUSE

() U.S. REQUESTS DETENTION () GRANTED () DENIED

() GOVT NOT SEEKING DETENTION

() DEFT. () REMANDED () DETAINED

() DEFT. ADMITS () DENIES VIOLATION

() COURT FINDS DEFT. IN VIOLATION

() DEFT. CONTINUED ON BOND/PROBATION

CONDITIONS OF RELEASE:

(\$) UNSECURED () SECURED () PTS () 3RD PARTY () TRAVEL

RESTRICTED

() APPROVED RESIDENCE () SAT () PAY COSTS () ELECTRONIC MONITORING
() MENTAL HEALTH TEST/TREAT () ROL () NOT DRIVE () FIREARM () PASSPORT
() AVOID CONTACT () ALCOHOL & DRUG USE () EMPLOYMENT

MINUTES:

() GOVT ADDUCED EVIDENCE & RESTS () EXHIBITS: _____

() DEFT ADDUCED EVIDENCE & RESTS () EXHIBITS: _____

Deft requests new attorney - DENIED

Matter continued to 3/6/12 @ 10am for PBV

Matter will be resolved on this date

() GOVT. () DEFT. () JOINT MOTION TO CONTINUE () GRANTED () DENIED

NEXT APPEARANCE:

3/6/12AT 10⁰⁰

() AM OR PM

() DH () PH () STATUS () TRIAL () JURY () PLEA () SENT () PBV () SRV () VCR () RS
() ARRAIGN () INDENT () OTHER JUDGE _____

() MATTER CONTINUED FOR FURTHER PROCEEDINGS BEFORE THE GRAND JURY

() RELEASE ORDER GIVEN TO USMS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES

JUDGE: IVAN D. DAVIS

CASE NO.: #2999437

HEARING: pbv

DATE: February 7, 2012

TIME: 10 AM

REPORTER: FTR GOLD SYSTEM

CLERK: KATE TOTH

vs.

Charithrum Kullavanijaya
DEFENDANT(S)

COUNSEL FOR UNITED STATES: Rob HeberleCOUNSEL FOR DEFENDANT: wlo

INTERPRETER: _____

LANGUAGE: _____

() DEFT. APPEARED () THROUGH COUNSEL () FAILED TO APPEAR () WARRANT TO BE ISSUED

() RULE 5 ADVISEMENT

() COURT TO APPOINT COUNSEL

() DEFT. TO RETAIN COUNSEL

() CONTACT PREVIOUS COUNSEL & REAPPOINT

() PRELIMINARY EXAMINATION WAIVED

() COURT FINDS PROBABLE CAUSE

() U.S. REQUESTS DETENTION () GRANTED () DENIED

() GOVT NOT SEEKING DETENTION

() DEFT. () REMANDED () DETAINED

() DEFT. ADMITS () DENIES VIOLATION

() COURT FINDS DEFT. IN VIOLATION

CONDITIONS OF RELEASE:

(\$) UNSECURED (\$) SECURED () PTS () 3RD PARTY () TRAVEL

RESTRICTED

() APPROVED RESIDENCE () SATT () PAY COSTS () ELECTRONIC MONITORING

() MENTAL HEALTH TEST/TREAT () ROL () NOT DRIVE () FIREARM () PASSPORT

() AVOID CONTACT () ALCOHOL & DRUG USE () EMPLOYMENT

MINUTES:

() GOVT ADDUCED EVIDENCE & RESTS () EXHIBITS: _____

() DEFT ADDUCED EVIDENCE & RESTS () EXHIBITS: _____

- Deft counsel did not appear

- USA to contact deft counsel re: new
court date.

() GOVT. () DEFT. () JOINT MOTION TO CONTINUE () GRANTED () DENIED

NEXT APPEARANCE:

2/21/2012

AT 10⁰⁰

() AM OR PM

() DH () PH () STATUS () TRIAL () JURY () PLEA () SENT () PBV () SRV () VCR () RS

() ARRAIGN () INDENT () OTHER JUDGE _____

() MATTER CONTINUED FOR FURTHER PROCEEDINGS BEFORE THE GRAND JURY

() RELEASE ORDER GIVEN TO USMS

Page No. 1
Date of Proceedings: August 16, 2011

In Court Time: 2 HOURS 10 MINUTES

SPASA: Wade Williams

Date August 16, 2011

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ACKNOWLEDGEMENT OF FINES, ASSESSMENTS, AND PROCESSING FEES
PROBATION NOTICE

Kullavanijaya, Chanitum
Last Name First Mi Magistrate Judge: ☐ TRJ ☐ TCB ☐ JFA ☒ JDD

Case/TVN #(s) (1) 2999437, (2) _____, (3) _____, (4) _____

1) I acknowledge that I have been sentenced to pay the following fine(s), assessment(s), and processing fee(s):

Fines: \$) 250 \$) _____ \$) _____ \$) _____

Assessments: \$) 0000 10 \$) _____ \$) _____ \$) _____

Fees: \$) 0000 25 \$) _____ \$) _____ \$) _____

Sub Totals: \$) _____ \$) _____ \$) _____ \$) _____

Total amount due: \$ 285.00 Date due: 9/16/2011

Make check or money order payable to: Clerk, U.S. District Court and mail to checked address:

☒ U.S. Courts - CVB OR ☐ Clerk, U.S. District Court
P.O. Box 70939 40 Courthouse Square
Charlotte, NC 28272-0939 Alexandria, VA 22314-5198

2) I acknowledge that: a) Penalties and interest may accrue on my fine(s) if not paid when due, (b) Any unpaid Federal fine is a lien against my real and personal property, (c) If I knowingly fail to pay my fine(s), the Court can increase the fine(s) pursuant to Title 18, Section 3614(a) of the United States Code, (d) Willful failure to pay a Federal fine is a crime, punishable by imprisonment for one year, a fine of up to \$10,000.00, or both, pursuant to Title 18, Section 3615 of the States Code.

I hereby certify that I read this notice and that I understand it.

[Signature] 8-16-2011
Defendant Date

Signature of Court Official: [Signature]
Deputy Clerk

☒ The defendant has been placed on sup. probation for a period of 1 yr. w/ special conditions:

- barred from federal parks in EDVA, MD & DC except for travel through via motor vehicle

- 5 days home conf. w/ electronic mon.

☐ PSI _____ Date _____

☐ Probation under 18 USC 3607 _____ Date _____

☒ Defendant, please report to the probation Office after leaving the Clerk's Office.

(order to follow)

DSJ/EF4